

November 21, 2023

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**BY: Tyler Martin
DEPUTY**JOSEPH LLOYD VONALLMAN,
#29222-280,****Movant,****v.****UNITED STATES OF AMERICA,
Respondent.**§
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§**SA-23-CV-1450-OLG
SA-20-CR-454-OLG-4****ORDER**

The Movant, a federal prisoner appearing *pro se*, filed a Motion pursuant to 28 U.S.C. § 2255 attacking his sentence following convictions for possession with intent to distribute cocaine and felon in possession of a firearm. (ECF No. 579). In the Motion, Movant alleges, among other things, that his attorney failed to file a requested notice of appeal. Movant provides some details regarding the alleged conversation with counsel wherein Movant instructed counsel to file an appeal on his behalf. Additionally, Movant states that he is currently working to secure affidavits from his sisters in support of his claim that counsel failed to file his notice of appeal as requested.

It is **ORDERED** that:

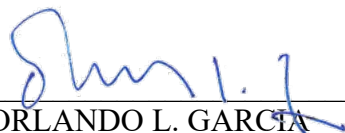
1. Within **thirty (30) days** of the date of this Order, the Movant shall file detailed answers, **made under oath and under the penalty of perjury**, to the following questions:
 - a. At any time following your sentencing, did you have a discussion with your attorney regarding an appeal of your conviction or sentence?

- b. If your answer to the preceding question is “yes,” state:
 - i. The date of the discussion;
 - ii. The time and place of the discussion;
 - iii. The substance of the discussion (including what specific action you instructed counsel to take, if any, regarding your appeal); and
 - iv. The names of all persons present during the discussion.
- 2. At the time the Movant files his answers to the above questions, he must also file any affidavits and other evidence supporting his ineffective assistance of counsel claim based upon trial counsel’s alleged failure to file a requested notice of appeal.

3. Failure by the Movant to respond to this order as directed will be interpreted as a failure to prosecute and result in the dismissal of the Movant's § 2255 Motion pursuant to Federal Rule of Civil Procedure 41(b).
4. Within **sixty (60)** days from the date of this order, the United States Attorney, on behalf of the Respondent, shall **file a response including an affidavit from the Movant's trial counsel that addresses the Movant's allegations and materials supporting his claim that counsel failed to file a requested notice of appeal.** The Government shall further address whether an evidentiary hearing is necessary. The Government shall file the response and affidavit **regardless of whether the Movant timely complies with the obligation to answer the interrogatories set forth in this order.**
5. Within **twenty-one (21)** days of the date he is served with the response, the Movant shall file a reply. The reply shall address counsel's affidavit and whether an evidentiary hearing is necessary.
6. The Respondent's answer, the Movant's reply, and all other documents filed or submitted to the Clerk of the Court for filing in the instant action must be served on the opposing party in accordance with Federal Rule of Civil Procedure 5. The Court will disregard any document filed or submitted to the Clerk of the Court for filing in the instant action that does not include a certificate of service.

It is so **ORDERED**.

SIGNED on November 21st, 2023.



ORLANDO L. GARCIA
UNITED STATES DISTRICT JUDGE